

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

R.S.A. No.1592 of 1991
Date of Decision: 6.12.2006

Ram Chand and others.

..... Appellants

Versus

Shri Ram and another.

..... Respondents

CORAM: Hon'ble Mr.Justice Mahesh Grover

....

Present: None for the appellants.

Shri Adarsh Jain, Advocate for the respondents.

....

Mahesh Grover,J.

The present appeal has been filed by the defendants assailing the judgments and decrees dated 16.1.1990 and 14.3.1991 passed by the Sub Judge Ist Class, Palwal (for brevity, 'the trial Court') and the Additional District Judge, Faridabad (hereinafter described as 'the lower Appellate Court'), respectively.

Briefly stated the facts of the case are that the plaintiffs-respondents filed a suit for permanent injunction and also prayed for a relief of mandatory injunction on the allegations that their houses and those of the defendants-appellants are adjacent to Gali Moryan which has been described and marked with letters PQVWRSTURB-AJKLMNO in the site plan attached with the plaint. They claimed that the Gali in question was being used by them for discharging domestic and rainy water of their houses

for the last more than 30 years and the appellants were trying to block the same at point AQ by raising a wall thereon without any lawful right.

The suit was contested by the appellants and the factum of the Gali in question being common was denied.

On the pleadings of the parties, a number of issues were framed, out of which the relevant is issue no.1 and the same is reproduced below:-

1. Whether there exists a gali moriyan marked with letters DQVWRSTU BAJKLMNO as alleged in the plaint and the plaintiffs have been using the alleged gali moriyan in the manner as alleged in para no.3 of the plaint?OPP

The learned trial Court, after appraising the evidence led before it, decreed the suit of the respondents and in appeal at the behest of the appellants, the findings of the trial Court were affirmed by the learned lower Appellate Court.

No one has put in appearance on behalf of the appellants.

Shri Adarsh Jain, learned counsel for the respondents contended that the findings of fact recorded by the Courts below were concurrent and no substantial question of law has been shown to have arisen in the present appeal. That apart, there was sufficient evidence to substantiate the pleas raised by the respondents in the suit.

Having heard learned counsel for the respondents and perused the record, I am of the considered opinion that the appeal deserves to fail. The records of the Municipal Committee, Palwal pertaining to various other persons apart from the respondents show the existence of Gali in question. No evidence to the contrary has been adduced by the appellants. In any

eventuality, the existence of the Gali is a fact which stands established. The appellants have also failed to demonstrate any right whatsoever to block the afore-stated Gali. Besides, a perusal of the site plan produced by the respondents pertaining to the houses of the appellants reveals that the disputed Gali is sand-witched between the houses of the respondents and any blockade thereof would certainly block the light and air apart from creating other nuisances.

In view of the concurrent findings of fact recorded by the Courts below and in the absence of any substantial question of law thrown up by the present appeal, the same is devoid of any merit and is dismissed as such.

December 06,2006
“SCM”

(Mahesh Grover)
Judge